

(ii) The Associate Administrator may include in any decision of approval such conditions as may be necessary to ensure that the proposed safety improvements are effective. If the Associate Administrator does not approve the quiet zone, the Associate Administrator describes in the decision the basis upon which the decision was made. A decision denying approval may be reviewed as provided in § 222.57(b).

(c) Appendix C contains guidance on how to create a quiet zone.

**§ 222.41 How does this rule affect Pre-Rule Quiet Zones?**

(a) *Pre-Rule Quiet Zones which qualify for automatic approval.* A Pre-Rule Quiet Zone will be considered automatically approved and may remain in effect, subject to § 222.51, if the Pre-Rule Quiet Zone is in compliance with § 222.35 (minimum requirements for quiet zones) and § 222.43 (notice and information requirements, with the exception of providing advance notice) and the Pre-Rule Quiet Zone:

(1) Has at every public highway-rail grade crossing within the quiet zone, one or more SSMs identified in Appendix A of this part; or

(2) The Quiet Zone Risk Index as last published by FRA is at, or below, the Nationwide Significant Risk Threshold; or

(3) The Quiet Zone Risk Index as last published by FRA is above the Nationwide Significant Risk Threshold but less than twice the Nationwide Significant Risk Threshold and there have been no relevant collisions at any public grade crossing within the quiet zone for the five years preceding December 18, 2003.

(b) *Pre-Rule Quiet Zones which do not qualify for automatic approval.* (1) If a Pre-Rule Quiet Zone does not qualify for automatic approval under paragraph (a) of this section, existing restrictions may, at the public authority's discretion, remain in place on an interim basis under the provisions of this paragraph (b) and upon compliance with § 222.43 (notice and information requirements, with the exception of providing advance notice). Continuation of a quiet zone beyond the interim periods specified in this paragraph will require implementation

of SSMs or ASMs in accord with § 222.39.

(2) In order to provide time for the public authority to plan for and implement quiet zones which are in compliance with the requirements of this part, a public authority may continue locomotive horn restrictions at Pre-Rule Quiet Zones which do not qualify for automatic approval for a period of five years from December 18, 2003, provided that, the public authority has, within three years of December 18, 2003, filed with the Associate Administrator a detailed plan for establishing a quiet zone under this part, including, in the case of a plan requiring approval under § 222.39(b), all of the required elements of filings under that paragraph together with a timetable for implementation of safety improvements.

(3) Locomotive horn restrictions may continue for an additional three years beyond the five year period permitted by paragraph (b)(2) of this section, if,

(i) Prior to December 18, 2006, the appropriate State agency provides to the Associate Administrator: a comprehensive State-wide implementation plan and funding commitment for implementing improvements at Pre-Rule Quiet Zones which do not qualify for automatic approval under paragraph (a) of this section, which, when implemented, would enable them to qualify for a quiet zone under this part; and

(ii) Prior to December 18, 2007, either physical improvements are initiated at a portion of the crossings within the quiet zone, or the appropriate State agency has participated in quiet zone improvements in one or more jurisdictions elsewhere within the State.

(4) In the event that the safety improvements planned for the quiet zone require approval of FRA under § 222.39(b), the public authority should apply for such approval prior to June 19, 2006, to assure that FRA has ample time in which to review such application prior to the end of the extension period.

**§ 222.43 What notices and other information are required to establish a quiet zone?**

(a) (1) Upon compliance with §§ 222.39(a) or 222.39(b) resulting in the establishment or approval of a quiet